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Applicant(s) : GERGELY, Janos et al.
Filing Date : July 26, 2001
Title: : Composite Systems and Methods for Anchoring Walls
Examiner : NGUYEN, Chi Q.
Group Art Unit : 3637
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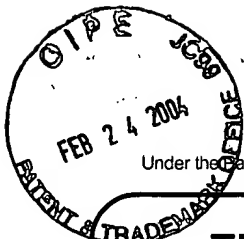
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		Art Unit	3637
		Examiner Name	NGUYEN, Chi Q.
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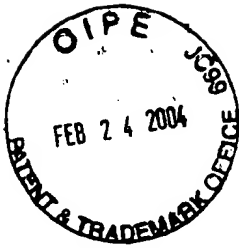
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Janos GERGELY et al.**

Application No.:	09/916,004	Examiner:	NGUYEN, Chi Q.
Filed:	July 26, 2001	Group Art Unit:	3637
Title:	COMPOSITE SYSTEMS AND METHODS FOR ANCHORING WALLS		

**RESPONSE TO OFFICE ACTION
AND REQUEST FOR RECONSIDERATION**

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Sir:

This Request for Reconsideration is filed in response to the non-final Office Action mailed December 9, 2003.

The originally-filed application (in the first sentence of its specification) claims priority to U.S. Provisional Patent Application No. 60/244,301, filed October 31, 2000. This Office Action, as well as the previous Office Actions mailed December 9, 2003 and October 9, 2002, however, does not acknowledge the claim for domestic priority under 35 U.S.C. § 119(e). Once again, Applicant respectfully repeats its request that the Office acknowledge the claim for priority to the above-mentioned provisional application.

Claims 1-31 are pending in the Application. Claims 1, 3, 6-7, 11-13, 17, 18, 22, 23, 27-29, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,867,804 to Wilson (hereinafter "Wilson") in view of the Canadian Journal of Civil

Engineering (CJOCE) Article (O. Chaallal and B. Benmokrane) (hereinafter “CJOCE”). Claims 2, 14, 23, and 27-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of CJOCE and further in view of U.S. Patent No. 5,685,115 to Colfer (hereinafter “Colfer”). Claims 4, 5, 8-10, 15-17, 19-21, and 24-26 are objected to as being dependent upon a rejected base claim, but are indicated as being allowable if rewritten in independent form. Applicant thanks the examiner for indicating the presence of allowable subject matter. Applicant, however, respectfully traverses the rejections to the claims. Thus, reconsideration of the pending claims is respectfully requested in view of the following remarks.

A. Claims 1, 3, 6, 7, 11-13, 17, 18, 22, 23, 27-29, and 31

Claims 1, 3, 6, 7, 11-13, 17, 18, 22, 23, 27-29, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of CJOCE. Claims 3, 6, 7, and 11 depend ultimately from independent claim 1. Claims 17, 18, and 22 depend ultimately from independent claim 14. Claims 27-29 and 31 depend ultimately from independent claim 23.

One of the criteria for a prima facie case of obviousness is that “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” *See* MPEP § 2143. The cited references do not teach or suggest all the claim elements of each of independent claims 1, 14, and 23. Each of claims 1-3, 6, 7, 11-13, 14, 17, 18, and 22 claim a construction system, which includes “each anchoring device having a first portion . . . the first portion of each anchoring device fixedly attached to the structural member . . . wherein each anchoring device comprises a fiber composite material.” Each of claims 23 and 27-31

claim a construction method, which includes “fixedly attaching a first portion of a composite fiber anchor to the structural member.”

Wilson does not disclose a construction system that includes “each anchoring device having a first portion . . . the first portion of each anchoring device fixedly attached to the structural member . . . wherein each anchoring device comprises a fiber composite material,” as claimed. Moreover, Wilson does not disclose a construction method that includes “fixedly attaching a first portion of a composite fiber anchor to the structural member,” as claimed.

The Office Action cites Wilson for teaching an “apparatus for securing parts of a building to each other and to a foundation comprising one or more anchoring devices 10 . . . the first portion of each anchoring device fixedly attached to the structural member 50” Wilson, however, does not disclose an anchoring device. Rather, Wilson discloses an anchor bolt form 10, preferably made of soft plastic material, and which may be readily cut with a knife or the like. (Col. 2, lines 31-35). The form 10 disclosed in Wilson is directed to “correctly locating anchor bolts” and not an anchoring device. (Col. 1, line 22) (emphasis added). Clearly, the form 10 disclosed in Wilson is not an anchoring device.

Assuming *arguendo* that form 10 is an anchoring device, Wilson does not disclose “the first portion of each anchoring device fixedly attached to the structural member.” The Office asserts that the first portion of form 10 is fixedly attached to “structural member 50.” Wilson, however, discloses, “[a] conventional nut and washer assembly 50 threaded onto the end of the bolt draws the bolt and the form 10 into engagement with a lower or bearing surface 52 of the templet 48.” (Col. 4, lines 30-33) (emphasis added). “After the concrete has hardened and the templet 48 is removed and the end 13 of the form 10 can be readily

severed from the sleeve 12 by cutting it with a knife . . .” (Col. 4, lines 40-42) (emphasis added). Therefore, the first portion of the device in Wilson is not fixedly attached.

Furthermore, there is no structural member disclosed in Wilson. The Office Action cites to a nut and washer assembly 50 as a structural member. The nut and washer assembly 50 disclosed in Wilson is not a structural member. Neither is the templet 48 a structural member. The templet 48 serves to hold the form 10 and anchor bolt assembly in place while the concrete has hardened. After the concrete has hardened, the templet 48 is removed. “[I]t is apparent that the upper portion of the bolt may be bent laterally in any direction within the limits of the upper end of the sleeve [12] . . .” (Col. 4, lines 45-47). Therefore, Wilson does not disclose a structural member to which the first portion of the device may be fixedly attached.

Thus, Wilson does not disclose a construction system that includes “each anchoring device having a first portion . . . the first portion of each anchoring device fixedly attached to the structural member . . . wherein each anchoring device comprises a fiber composite material,” as claimed. Moreover, Wilson does not disclose a construction method that includes “fixedly attaching a first portion of a composite fiber anchor to the structural member,” as claimed.

The Office Action cites CJOCE for teaching that “glass-fiber-composite material rods have been considered for replacing conventional steel rebar in construction of bridges, tunnels, multistory parking garages, and retaining wall.” CJOCE, however, does not disclose a construction system that includes “each anchoring device having a first portion . . . the first portion of each anchoring device fixedly attached to the structural member . . . wherein each

anchoring device comprises a fiber composite material,” as claimed. Moreover, CJOCE does not disclose a construction method that includes “fixedly attaching a first portion of a composite fiber anchor to the structural member,” as claimed.

Thus, neither Wilson nor CJOCE teaches or suggests, singularly or in combination, all the claim elements of each of claims 1, 3, 6, 7, 11-13, 17, 18, 22, 23, 27-29, and 31. Applicant respectfully submits that claims 1, 3, 6, 7, 11-13, 17, 18, 22, 23, 27-29, and 31 are each patentable over Wilson in view of CJOCE. Accordingly, the rejection to claims 1, 3, 6, 7, 11, 13-17, 18, 22, 23, 27-29, and 31 should be withdrawn and the claims allowed.

Notwithstanding the above, the rejection is improper because there is no suggestion or motivation to combine the references to result in Applicant’s invention. One of the criteria for a *prima facie* case of obviousness is that “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” MPEP § 2143. The Office Action asserts that, “it would have been obvious to a person of ordinary skill in the art to combine Lawson [sic: Wilson] with CJOCE Article for the reinforcing rods or anchoring devices made from glass-fiber composition material. The motivation for doing so would have been to provide lighter, and better corrosive protection for the anchoring device.” This general assertion is not a showing of the necessary suggestion or motivation to *modify Wilson or to combine Wilson and CJOCE*.

“The teaching or suggestion to make the claimed combination *and the reasonable expectation of success* must be found in the prior art, not in applicant’s own disclosure.” MPEP § 2143 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d (Fed. Cir. 1991) (emphasis

added)). No teaching or suggestion to combine Wilson and CJOCE, nor any grounds for a reasonable expectation of success in combination, has been shown. Thus, the Office has not established a *prima facie* case of obviousness.

Moreover, one of ordinary skill in the art seeking to strengthen or reinforce walls capable of withstanding flexural loads would not be motivated to combine Wilson and CJOCE. The authors of CJOCE unequivocally state that “it must be realized that GFRPR [glass-fiber-reinforced plastic rod] was not developed as a substitute for conventional steel rebars.” (CJOCE, *see* Conclusion). Rather, GFRPR is directed at applications subject to corrosive environments or where electrical or electromagnetic insulation is required. (CJOCE, *see* Abstract and Introduction). Moreover, GFRPR is unacceptable in some applications where deflection or flexure is the governing criterion. (CJOCE, *see* Section 8.3 Flexural elements: beams, unidirectional slabs) (emphasis added). Thus, there is no suggestion or motivation to combine the references to result in Applicant’s invention

Therefore, claims 1, 3, 6, 7, 11-13, 17, 18, 22, 23, 27-29, and 31 are each patentable over Wilson in view of CJOCE. Accordingly, the rejection to claims 1, 3, 6, 7, 11-13, 17, 18, 22, 23, 27-29, and 31 should be withdrawn and the claims allowed.

B. Claims 2, 14, 23, and 27-31

Claims 2, 14, 23, and 27-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of CJOCE and further in view of Colfer. Claim 2 depends ultimately from independent claim 1. Claims 27-31 depend ultimately from independent claim 23.

As discussed above, one of the criteria for a prima facie case of obviousness is that the prior art reference (or references when combined) must teach or suggest all the claim limitations. The cited references do not teach or suggest all the claim elements of each of independent claims 1, 14, and 23. Each of claims 2 and 14 claim a construction system, which includes “each anchoring device having a first portion . . . the first portion of each anchoring device fixedly attached to the structural member . . . wherein each anchoring device comprises a fiber composite material.” Each of claims 23 and 27-31 claim a construction method, which includes “fixedly attaching a first portion of a composite fiber anchor to the structural member.”

As discussed above, neither Wilson nor CJOCE, singularly or in combination, discloses “each anchoring device having a first portion . . . the first portion of each anchoring device fixedly attached to the structural member . . . wherein each anchoring device comprises a fiber composite material,” as claimed. Also as discussed above, neither Wilson nor CJOCE, singularly or in combination, discloses “fixedly attaching a first portion of a composite fiber anchor to the structural member,” as claimed. Thus, neither Wilson nor CJOCE, singularly or in combination, teaches or suggests every element of independent claims 2, 14, 23, and 27-31.

The Office Action cites Colfer for teaching an “integrated wall system having reinforced wall 10 with a plurality of horizontal and vertical reinforcing rods 17.” Colfer, however, does not disclose a construction system that includes “each anchoring device having a first portion . . . the first portion of each anchoring device fixedly attached to the structural member . . . wherein each anchoring device comprises a fiber composite material,”

as claimed. Moreover, Colfer does not disclose a construction method that includes “fixedly attaching a first portion of a composite fiber anchor to the structural member,” as claimed.


Thus, Colfer does not teach or suggest, singularly or in combination with Wilson and/or CJOCE, all the claim elements of each of claims 2, 14, 23, and 27-31. Applicant respectfully submits that claims 2, 14, 23, and 27-31 are each patentable over Wilson in view of CJOCE and further in view of Colfer. Accordingly, the rejection to claims 2, 14, 23, and 27-31 should be withdrawn and the claims allowed.

CONCLUSION

Applicant respectfully submits that claims 1-31 are allowable. A favorable Office Action is respectfully solicited. The Examiner is invited to contact the undersigned by telephone to discuss any matter related to the Application.

Respectfully submitted,

Dated: February 24, 2004

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